

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. **CV - HURLEY**

**00 - 6023**

R/S ASSOCIATES, a Florida  
Limited Partnership and  
DAN SHOOSTER

Plaintiff

vs.

MAGISTRATE JUDGE  
LYNCH

ROBERT YARI and FORUM  
ARLINGTON PROPERTIES, LTD.,

Defendants

VERIFIED COMPLAINT FOR INJUNCTIVE,  
DECLARATORY AND COMPENSATORY RELIEF

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COME NOW the Plaintiffs, R/S Associates, a Florida limited partnership (hereinafter "R/S") and Dan Shooster (hereinafter "Shooster") (sometimes jointly referred to as "Plaintiffs"), by and through their undersigned counsel, and for their Verified Complaint against Robert Yari (hereinafter sometimes referred as "Yari") and Forum Arlington Properties, Ltd. (hereinafter sometimes referred to as "Forum") (both parties hereinafter sometimes jointly referred to as "Defendants") would state as follows:

THE PARTIES

1. Plaintiff Shooster is an individual with his principal place of business located at 2900 West Sample Road, Pompano Beach, Broward County, Florida 33073.

2. Plaintiff R/S Associates is a Florida Limited Partnership

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with its principal place of business located at 2900 West Sample Road, Pompano Beach, Broward County, Florida 30073.

3. Defendant Yari is an individual with his principal place of business located at 10850 Wilshire Boulevard, Suite 1050, Los Angeles, California 90024.

4. Defendant Yari is an individual with his principal place of business located at 10850 Wilshire Boulevard Suite 1050, Los Angeles, California 90024 and/or 2900 East Pioneer Parkway, Suite 615, Arlington, Texas 76010.

#### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and § 1338 and 15 U.S.C. § 1121, because this action arises under 15 U.S.C. § 1114 and § 1125(a). This Court has jurisdiction over Plaintiffs' state-law claims under the doctrine of pendent jurisdiction.

6. Venue in this action lies in the Southern District of Florida under the provisions of 28 U.S.C. § 1391(b) as this is the jurisdiction wherein the claims arose and wherein the parties met and entered into various agreements which form the background for this action.

#### **Background**

7. Shooster is a executive in R/S.

8. R/S operates the "Festival Flea Market" which is located at 2900 West Sample Road, Pompano Beach, Florida.

9. The Festival Flea Market, when originally created, was a unique blend between a flea market and a traditional mall or

shopping center which previously did not exist elsewhere in the business world.

10. The Plaintiffs and Defendants had a series of meetings in 1997 and 1998 wherein the Defendants proposed that the unique Festival Flea Market concept that the Plaintiffs had created be expanded to locations outside of Pompano Beach, Florida.

11. Specifically, the Defendants proposed that the Festival Flea Market concept be applied to a shopping center which the Defendants operated in the Arlington, Texas area.

12. To accomplish this end, Plaintiffs and Defendants engaged in numerous discussions wherein the parties would attempt to enter into some sort of a joint venture relationship for the benefit of the Plaintiffs and the Defendants.

13. Ultimately, it was decided that the Plaintiffs would provide various expertise to the Defendants on how to create a Festival Flea Market concept like the one in Pompano Beach, Florida in exchange for certain compensation.

14. Attached hereto as Exhibit "A" is a letter dated November 2, 1998 from Defendant Forum to Plaintiff Shooster wherein Forum agreed to pay Shooster the sum of Fifty Thousand Dollars (\$50,000.00) within six (6) months of said letter in exchange for organizing various marketing efforts. Said monies have not been paid as of this date.

15. Attached hereto as Exhibit "B" is a letter dated March 5, 1998 from Defendant Forum to Plaintiff Shooster wherein Forum agreed to pay Shooster the sum of One Hundred Thousand Dollars

(\$100,000.00) for consulting services regarding a mall in the Arlington, Texas area, once the mall is operational and positive cash flows are generating. Defendant Forum has not paid said One Hundred Thousand Dollars (\$100,000.00) to Shooster as of this date.

16. Plaintiff Shooster has provided all goods and services required of the Exhibit "A" November 2, 1998 letter and Exhibit "B" March 5, 1998 letter.

17. The Arlington Mall/property is operational and positive cash flow is either being generated or should be generated by this time.

18. Plaintiffs and Defendants continued to negotiate to try to enter into some sort of a joint venture agreement for the mall/property being operated by Defendants in the Arlington, Texas area; but no joint venture or other agreement was ever reached between Plaintiffs and Defendants.

19. On or about September 27, 1999, counsel for Plaintiffs sent a notice to Defendants, a copy of which is attached herein as Exhibit "C" wherein Plaintiffs demanded that Defendants pay Plaintiff Shooster the sum of One Hundred Thousand Dollars (\$100,000.00); Plaintiff R/S the sum of Fifty Thousand Dollars (\$50,000.00) and cease and desist from using the tradenames and trademarks of "Festival Flea Market Mall" and "Festival Marketplace Mall" on or before November 7, 1999 unless the parties are able to enter into some sort of License Agreement or other arrangement to allow continued use of said trademarks and tradenames.

20. Plaintiffs and Defendants have never been able to enter

into any agreement whereby Defendants would have the continued right to use any of Plaintiffs' trademarks or tradenames after November 7, 1999.

21. Defendants have never paid Plaintiff Shooster the One Hundred Thousand Dollars (\$100,000.00) due him or Plaintiff R/S the Fifty Thousand Dollars (\$50,000.00) due them.

22. Defendants continue to use the trademarks, tradenames, trade dress and confusingly similar tradenames and trademarks to that of Plaintiffs.

23. Defendants have no authority to use the trademarks, tradenames, trade dress or other items of the Plaintiffs at this time.

**COUNT I**  
**TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION**

24. Plaintiffs reincorporate paragraphs 1 through 23 as if same were more fully set forth herein.

25. Plaintiffs currently own numerous Federal and Florida trademarks as more clearly set out in Composite Exhibit "D", a copy of which is attached hereto.

26. Because Defendants never entered into a Trademark License Agreement or any other agreement with the Plaintiffs, Defendants are barred from using any of Plaintiffs trademarks, tradenames, trade dress or anything confusingly similar therewith.

27. At this time, Defendants are using the tradenames, trademarks and/or trade dress or tradenames or trademarks confusingly similar thereto for their mall located in the Arlington, Texas area.

28. By reason of the foregoing, Defendants have infringed and threatened to continue the infringement of Plaintiffs registered trademarks in violation of 15 U.S.C. § 1114 and Defendants' actions also constitute unfair competition under 15 U.S.C. § 1125 (a).

29. Defendants' conduct has subjected and will continue to subject Plaintiffs' rights and its marks to irreparable injury, for which Plaintiffs have no adequate remedy at law.

30. Pursuant to 15 U.S.C. §§ 1116 and 1117, Plaintiffs are entitled to injunctive relief, an accounting of Defendants' profits, treble damages, royalties, and to recover their reasonable attorneys' fees incurred in this action.

**COUNT II**  
**BREACH OF CONTRACT**

31. Plaintiffs reincorporate paragraphs 1 through 23 as if same were more fully set forth herein.

32. Defendants have materially breached the Exhibit "A" and "B" Agreements by not paying Plaintiff Shooster One Hundred Thousand Dollars (\$100,000.00), not paying Plaintiff R/S Fifty Thousand Dollars (\$50,000.00) and not ceasing and desisting from using Plaintiffs' trademarks, tradenames, trade dress and/or confusingly similar trademarks or tradenames after November 7, 1999.

33. By reason of the forgoing, Plaintiffs are entitled to: a Declaration that Defendants owe royalty fees to Plaintiffs for use of Plaintiffs trademarks, tradenames, trade dress and/or using confusingly similar trademarks or tradenames; an accounting as to what benefits Defendants have received by improperly using

Plaintiffs trademarks, tradenames, trade dress and/or confusingly similar trademarks or tradenames; full payment of the Fifty Thousand Dollars (\$50,000.00) owed to Plaintiff R/S; full payment of the One Hundred Thousand Dollars (\$100,000.00) owed to Plaintiff Shooster and to other damages and/or amounts owed caused by Defendants' material breaches of the Exhibit "A" and "B" Agreements, plus interest.

**REQUEST FOR RELIEF**

34. WHEREFORE, Plaintiffs, R/S Associates, a Florida Limited Partnership and Dan Shooster, respectfully request this Honorable Court grant the following relief:

A. That the Court temporarily and permanently enter an Injunction enjoining Defendants Robert Yari and Forum Arlington Properties, Ltd., or their agents, servants, employees and those acting by and under them, from the following:

- (1) Using the "Festival Marketplace Mall" #3101 trademark;
- (2) Using the "Festival Marketplace Mall/Logo" #3102 trademark;
- (3) Using the Winners! Arcade/Design #3103 trademark;
- (4) Using the Winners! Arcade/Design #3121 trademark;
- (5) Using the Festival Marketplace #3104 trademark;
- (6) Using the Festival Marketplace #3105 trademark;
- (7) Using the Shopaholic #3112 trademark;
- (8) Using the Festiventures #3120 trademark;
- (9) Using the Festiventures #3112 trademark;
- (10) Using the Fesitvalue #3111 trademark;

- (11) using the Festivalue #3119 trademark;
- (12) Using the Fleabytes #3110 trademark;
- (13) Using the Fleabytes #3118 trademark;
- (14) Using the Flea Market Mall #3117 trademark;
- (15) Using the Festival Flea Market Mall #3108 trademark;
- (16) Using the Festival Flea Market/Design #3107 trademark;
- (17) Using the Festival Flea Market/Design #3115 trademark;
- (18) Using the Flea T.V. #3106 trademark;
- (19) Using the Flea T.V. #3114 trademark;
- (20) Using the Festival Marketplace/Design #3123 trademark;
- (21) International Festival Center trademark.

B. That the Court enter a Declaratory Judgment finding that Defendants are not entitled to use any of the trademarks, tradenames or trade dress of the Plaintiffs;

C. That the Court enter an accounting of all profits Defendants earned during the period of their trademark, tradename or trade dress infringement and award same to Plaintiffs pursuant to 15 U.S.C. § 1117(a) and that the Court further enter Judgment in favor of Plaintiffs for monetary damages in an amount equal to three times Defendants' profits during infringement, pursuant to 15 U.S.C. §1117(b), plus reasonable royalties and other additional compensation that the Court finds just and equitable under the circumstances of this case;

D. That Plaintiffs be awarded Judgment in the amount of their actual damages sustained by reason of the conduct of the



Defendants;

E. That the Court grant Plaintiffs' reasonable attorneys' fees in connection with this Complaint pursuant to Florida Statutes Annotated Chapter 57; to 15 U.S.C. § 1117, and to other law;

F. That the Court award Plaintiff Shooster the sum of One Hundred Thousand Dollars (\$100,000.00);

G. That the Court award Plaintiff R/S the sum of Fifty Thousand Dollars (\$50,000.00); and

H. That Plaintiffs be awarded such other and further relief as this Honorable Court deems just and proper.

Dated:

1-6-2000

FRIEDMAN, ROSENWASSER & GOLDBAUM, P.A.  
Attorneys for Plaintiffs  
5355 Town Center Road #801  
Boca Raton, Florida 33486  
Tel: (561) 395-5511  
Fax: (561) 368-9274

by:



KEITH A. GOLDBAUM, ESQUIRE  
FBN 0475637

**VERIFICATION**

I, DAN SHOOSTER, as authorized agent of R/S ASSOCIATES, a Florida Limited Partnership, upon my own personal knowledge, hereby swear and attest that the allegations set forth above in the Verified Complaint for Injunctive Relief and Damages are true and accurate.

R/S ASSOCIATES,  
a Florida Limited Partnership


by: 

DAN SHOOSTER,  
Authorized Agent

STATE OF FLORIDA  
COUNTY OF BROWARD

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, DAN SHOOSTER, authorized agent of R/S ASSOCIATES, a Florida Limited Partnership, who is personally known to me or who has produced a \_\_\_\_\_ as identification, who acknowledged that he did sign and seal the foregoing instrument for, and on behalf of said Corporation, being thereunto duly authorized by its Board of Directors and that the same is his free act and deed as such officer and the free act and deed of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 3 day of January, ~~1999~~ 2000

  
NOTARY PUBLIC

My Commission Expires:

September 18, 2003



Janice M Schrii  
My Commission CC861729  
Expires September 18, 2003

**FORUM ARLINGTON PROPERTIES, LTD.**

18158 Wilshire Blvd., Suite 7010, Los Angeles, CA 90024

November 2, 1998

Mr. Dan Shooster  
Festival Flea Market Mall  
2900 West Sample Road  
Pompano Beach, FL 33073

VIA TELECOPIER

Re: Festival/Dallas

Dear Dan:

Pursuant to our discussion, this letter shall confirm our agreement relating to the use of your Festival logo and advertising (as set forth in my November 7, 1997 letter to you, modified by letter dated November 28, 1997). We shall extend the rights granted for an additional year. Additionally, we shall have the right to use two new TV spots created for you by Beber/Silverstein titled "conga", indefinitely. In return we agree to pay you the sum of \$50,000 within 6 months of this date. \$49,000 shall be allocated to production costs you have paid for the new ads and \$1,000 shall be allocated to the continuation of the logo license.

And finally, pursuant to your request, the following are current costs incurred on the Dallas Festival. These costs are approximate and the costs are continuing as we finalize construction and carry negative operating income until stabilization.

Current loan x 50%	\$1,400,000
Capital to-date x 50%	\$1,600,000
New \$1m loan x 50%	\$ 500,000
Partner buy-out x 100%	<u>\$1,900,000</u>

Total cost of 50%	\$5,400,000	(of this amount, \$1,900,000 is currently financed) (this amount does not include carry on capital)
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I look forward to continuing our discussions towards a mutually beneficial venture. Also, please don't forget to discuss the overall participation with Harry. I am eager to know your collective thoughts on that issue. Best regards to you and the family.

Sincerely,

Bob Yari

EXHIBIT A

**FORUM ARLINGTON PROPERTIES, LTD.** 10040 Wilshire Blvd. Suite 1050 Los Angeles, CA 90024  
an option to give up your shares and regain the name rights granted in the event an agreed upon  
number of projects have not been acquired by a certain date.

ID: 9549683980

FESTIVAL

FORUM ARLINGTON PROPERTIES, Ltd. 10850 WILSHIRE BOULEVARD, SUITE 1080, LOS ANGELES, CA 90024

March 5, 1998

Mr. Dan Shooster  
Festival Flea Market Mall  
2900 West Sample Road  
Pompano Beach, FL 33073

VIA TELECOPIER

Re: Festiventures/ Festival Marketplace

Dear Dan:

Pursuant to our discussion, this letter shall confirm my agreement relating to your consulting services with respect to the Festival Marketplace Mall and our general understanding regarding our potential joint venture.

Over and above the commitments set forth in the November 7, 1997 letter, Festival Marketplace, Ltd. Shall pay you the sum of \$100,000 for your consulting services up through opening and stabilization (approximately three months) of the mall. We have agreed that this sum will be payable once the mall is operational and positive cash flows are generating. I truly appreciate your understanding in this respect as this will allow the current availability of funds to be concentrated on the construction, marketing and leasing efforts.

Additionally, as we are contemplating our joint venture and I await draft agreements from your attorney, we shall both move forward with efforts to procure venture capital financing in the interim as long as no liability or cost accrues to you prior to full execution of an agreement. This agreement will contain a provision which provides that you will be entitled to 10% ownership in the venture at no cost, should you not desire to participate financially in the equity requirements. And finally, we both agree to use good faith efforts to gain one another an equity purchase opportunity in each of our respective Festival Malls.

I hope this accurately summarizes our discussions. Please do not hesitate to contact me if anything is contrary to your understanding. I look forward to seeing you and Leslee in Dallas. Best regards.

Sincerely,

Bob Yari

EXHIBIT

B

September 27, 1999

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Robert Yari  
Forum Arlington Properties, Ltd.  
10850 Wilshire Boulevard, Suite 1050  
Los Angeles, CA 90024

Re: **Expiration of Right to Use Trademarks**  
Our File: 5477.3100

Dear Mr. Yari:

As you know this firm represents Dan Shooster and his business in trademark matters. I write to remind you that your trademark rights expire shortly. As you agreed in your letter to Dan Shooster dated November 2, 1998, whatever limited right you may have enjoyed to use our client's trademarks (the "Trademarks")—including, without limitation, *Festival Flea Market Mall* and *Festival Marketplace Mall*, expires on November 7, 1999. Likewise, any right to use any advertising or other materials containing the Trademarks expires at such time. Please note that notwithstanding the expiration of your license rights, the indemnities that you extended to our client in your March 19, 1998, letter continue in effect and survive such expiration.

Unless you want to enter a formal license agreement in accordance with the instructions set forth below, on or before November 7, 1999, you are reminded that as of such date, under federal law, you must on such date:

- cease using the Trademarks and any colorable imitations thereof, including all materials containing the Trademarks;
- cancel any assumed-name registrations pertaining to any of the Trademarks (including, without limitation, any such registration pertaining to an assumed name incorporating any of the Trademarks);
- amend your company name if it incorporates any of the Trademarks; and

September 27, 1999  
Robert Yari  
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- take any further actions our client may reasonably require to avoid any actual or potential public confusion concerning the parties' respective businesses.

The foregoing obligations are not exclusive of our client's other rights, all of which it reserves.

As you may know, Mr. Shooster hold federal registrations for his mark under the Federal Lanham Act. The Act requires Mr. Shooster, as a condition of his registrations, both to control the use of his marks, and to prevent the unauthorized use of his marks. Consequently, we have warned Mr. Shooster that he must take steps to prevent the continued use by you of the marks after any license rights you have expire on November 7, 1999, to satisfy his federal legal obligations.

If you desire to enter a license agreement to use the Trademarks, you may do so by satisfying all of the following conditions by no later than November 7, 1999:

- notify our firm in writing of your intention to renew;
- pay R/S Associates and Daniel Shooster all amounts you currently owe them respectively, including, without limitation, \$51,000 (which includes the \$1,000 initial fee never paid) to R/S Associates and \$100,000 to Mr. Shooster (please note that there are amounts in addition to this sum that you owe Mr. Shooster); and
- enter our client's form of trademark license agreement.

In any event, the amounts you owe R/S Associates and Daniel Shooster are over due and must still be paid. Mr. Shooster may consider granting you the right to pay the amounts owed to R/S Associates in monthly payments of \$5,000, starting October 1, until paid in full, if you otherwise pay the personal amounts owed to him now. He makes this gesture in light of your prior offer of July to make payments on a monthly basis. Under that offer, your proposed monthly payments would have unduly delayed the payment to him that he has told you he wants personally to apply to some matters he has pending. Those payments from you are long overdue. You should be aware that Mr. Shooster has avoided numerous collection attempts as a courtesy to you and to avoid overburdening you. Mr. Shooster seeks the payment to him personally as a gesture of your own good faith and commitment. At this point that your license is expiring, it is imperative to finalize these matters.

To pursue a formal licensing program or otherwise discuss your trademark commitments, please contact me directly. I will be happy to discuss any questions or comments you may have. If you prefer to communicate by e-mail, my address is [RRosenwasser@Lawmind.com](mailto:RRosenwasser@Lawmind.com). To avoid any delay in understanding your intentions, I would appreciate you contacting me at your earliest convenience, and in no event later than September 30, 1999.

September 27, 1999  
Robert Yari  
Page 3

Sincerely,

Ronald N. Rosenwasser

cc.: Daniel Shooster



TRADEMARK STATUS REPORT-R/S ASSOCIATES  
AS OF DECEMBER 15, 1999

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
Festival Marketplace Mall #3101	35: Preparing and placing advertisements for others; dissemination of advertising matter on behalf of vendors	75/439,184		Federal
	36: Leasing of market space in a multi- tenanted marketplace			
Festival Marketplace Mall/Logo #3102	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of printed materials regarding a multi-tenanted marketplace	T99000000451	April 16, 1999	Florida
	36: Leasing of market space in a multi- tenanted marketplace			
Winners! Arcade/Design #3103	41: Video game arcade services and providing party planning services and facilities	2,285,10`	Oct. 12, 1999 Oct. 12, 2005 Oct. 12, 2009	Federal
Winners! Arcade/Design #3121	42: Video arcade, games and party services	T98000000910	Aug. 4, 1998- Aug. 4, 2008	Florida

EXHIBIT

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
Festival Marketplace #3104	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of matter regarding a multi-tenanted marketplace	2,229,205	Mar. 2, 1999- Mar. 2, 2005- Mar. 2, 2009	Federal
	36: Leasing of Flea Market space			
Festival Marketplace #3105	35: : Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of matter regarding a multi-tenanted marketplace	T96000001373	Dec. 10, 1996- Dec. 10, 2006	Florida
	36: Leasing of market space in multi-tenanted marketplace			
Shopaholic #3112	42: Offering membership in an association to person who purchase a certain dollar volume of merchandise from a multi-tenanted marketplace; Members will be provided special shopping courtesies, discounts, special sales events and a newsletter	T96000001374	Dec. 10, 1996- Dec. 10, 2006	Florida
Festiventures #3120	35: Business consultation services geared toward persons who want to create specialized retail market-places; preparing advertising for persons who operate specialized retail marketplaces	2,097,593	Sept. 16, 1997- Sept. 16, 2003- Sept. 16, 2007	Federal

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
Festiventures 3112	35: Consulting services to persons who want to create specialized retail marketplaces; preparing advertising for persons who operate specialized retail marketplaces	T96000001093	Sept. 24, 1996- Sept. 24, 2006	Florida
Festivalue #3111	35: Promoting and advertising the goods being sold by vendors in a multi-tenanted marketplace by providing discount vouchers; advertising services, namely, providing advertising space in a periodical of the goods and services being provided by retail vendors	2, 097,592	Aug. 16, 1997- Aug. 16, 2003- Aug. 16, 2007	Federal
Festivalue #3119	35: Preparing advertising for vendors in a multi-tenanted marketplace and preparing advertising for owner of said marketplace	T96000001089	Sept. 18, 1996- Sept. 18, 2006	Florida
FLEABYTES #3110	35: Promoting the goods and services of others by providing advertising and information through a listing or sublisting on a national computer network	2,044,577	Mar. 11, 1997- Mar. 11, 2003- Mar. 11, 2007	Federal
FLEA BYTES #3118	42: Operating an information link on the Internet	T96000001091	Sept. 18, 1996 Sept. 18, 2006	Florida

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
Flea Market Mall #3117	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of printed material regarding a multi-tenanted marketplace	T96000001092	Sept. 18, 1996 Sept. 18, 2006	Florida
	36: Leasing of market space in multi-tenanted marketplace			
Festival Flea Market Mall #3108	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of matter regarding a multi-tenanted marketplace	1,958,606	Feb. 27, 1996- Feb. 27, 2002- Feb. 27, 2006	Federal
	36: Leasing of Flea Market Space			
Festival Flea Market/Design #3107	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of printed material regarding a multi-tenanted marketplace	1,948,221	Jan. 16, 1996- Jan. 16, 2002- Jan. 16, 2006	Federal
	36: Leasing of market space in multi-tenanted marketplace			
Festival Flea Market/Design #3115	36:	T15036	Sept. 23, 1991 Sept. 23, 2001	Florida
Flea T. V. #3106	35: Promoting the goods and services of others by providing advertising on a television shopping show	2,018,022	Nov. 19, 1996- Nov. 19, 2002- Nov. 19, 2006	Federal

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
Flea T.V. #3114	35: Preparing television advertising for vendors in a multi-tenanted marketplace and preparing advertising for the owner of the marketplace	T96000001090	Sept. 18, 1996 Sept. 18, 2006	Florida
Festival Marketplace /Design #3123	35: Preparing advertising for vendors in a multi-tenanted marketplace; dissemination of printed material regarding a multi-tenanted marketplace  36: Leasing of market space in multi-tenanted marketplace	75/669,681		Federal

<b>Trademark:</b>	<b>Class: Description:</b>	<b>Serial/ Registration Number:</b>	<b>Registration Date; Affidavit of Use Filing Date and Renewal Date:</b>	<b>Federal or State</b>
International Festival Center	Third party application	75/377,290	ITU Application	Federal

**S**tep into the Festival Marketplace Mall. And discover a whole new world. With over 500 merchants selling name-brand merchandise at below outlet prices, it's truly a bargain-hunter's paradise. There are also a few unexpected treats - like our full-service beauty salon, video arcade, 6-screen movie theater and our International Food Court. It's worlds apart from anything you've seen before and it's all just minutes away. So step out of the ordinary and into the unique shopping experience of the Festival Marketplace Mall.

**V**isite el Festival Marketplace Mall y descubra todo un mundo nuevo. En este paraíso de los amantes de las ofertas, más de 500 comerciantes venden artículos de marca a precios más bajos que los del mercado. Y hay otras atracciones que no esperaba - por ejemplo, un salón de belleza que ofrece todo tipo de servicios, juegos de video, una sala cinematográfica de 6 pantallas y una Galería Internacional de Restaurantes. Es algo totalmente diferente a lo que haya visto antes, y se encuentra a pocos minutos de distancia. Así que decídase a salir de la rutina y disfrute recorriendo las tiendas del Festival Marketplace Mall.

**V**isitez le Festival Marketplace Mall et vous découvrirez un monde entièrement nouveau. Avec plus de 500 marchands vendant des marchandises de marque à des prix inférieurs au prix de détail, c'est vraiment le paradis pour les amateurs de bonnes affaires. Quelques surprises également, comme notre salon de beauté, notre galerie de jeux vidéo, notre cinéma à six salles et notre Galerie de Restauration Internationale. Un monde de différence par rapport à tout ce que vous avez vu auparavant et à quelques minutes seulement. Sortez de l'ordinaire pour quelque chose d'unique au Festival Marketplace Mall.

**B**esuchen Sie die Festival Marketplace Mall, und entdecken Sie eine völlig neue Welt - ein wahres Einkaufsparadies, in dem mehr als 500 Händler Markenware zu Preisen verkaufen, die noch unter dem Großhandelspreis liegen. Eine wahre Schatztruhe. Außerdem erwarten Sie hier auch einige überraschende Extras, wie etwa unser Schönheitssalon mit vollem Serviceangebot, eine Video-Arka, ein Kino mit 6 Leinwänden und unser internationaler Imbissbereich. Sie fühlen sich in eine völlig andere Welt versetzt - so etwas haben Sie noch nie gesehen. Dabei können Sie in nur wenigen Minuten bei uns sein. Kehren Sie also dem

**FESTIVAL MARKETPLACE MALL**

**IT'S A BIG WORLD IN HERE.**

■ FREE PARKING ■ FREE ADMISSION  
 ■ WHEELCHAIRS ■ STROLLERS ■ DIAPER DECKS  
 ■ GIFT CERTIFICATES

360 AT PIONEER PARKWAY - ARLINGTON  
 HEART OF THE METROPLEX  
 OPEN WED. - FRI., 10:00 AM - 7:00 PM  
 SAT., 10:00 AM - 8:00 PM  
 SUN., 12:00 NOON - 6:00 PM  
 (817) 649-8065

**FESTIVAL MARKETPLACE MALL**

OUT OF THE WORLD

**AT THE FESTIVAL MARKETPLACE MALL WE HAVE EVERYTHING FOR**

**HOMEMAKERS**

Crystal, linens, dishes, appliances, fine art, furniture, fresh flowers. **BREATHTAKERS**

Designer fragrances.

cosmetics, lingerie, hosiery, the latest designer fashions.

**SHOPAHOLICS**

Purses.

ATM bank machine, over 500 merchants, backpacks, collectibles, electronics.

chocolates, cameras, sunglasses, radio headsets, souvenirs.

**WORKAHOLICS**

Beeper, phones, suits, ties, belts, shoes, briefcases, and luggage. **HOMEBODIES** Computer software.

VCRs, videos, recliners, TVs, books, magazines, tools and hardware.

men's fashions, hats, boots, cigars, tuxedos, loungewear, leather jackets.

Costume jewelry, hand-bags, t-shirts, sundries, unusual gift items, candles, baskets, silk flower arrangements and much, much more. **THINGS FOR BIG**

**AND LITTLE KIDS**

Rollerblades, golf clubs, sportswear, exercise equipment.

stuffed animals, candy, toys galore.

hand-held video games ..... **PLUS AN INTERNATIONAL FOOD COURT**

**FULL-SERVICE BEAUTY SALON, A 6-SCREEN MOVIE THEATER, FARMER'S**



# US PATENT & TRADEMARK OFFICE

## TRADEMARK TEXT AND IMAGE DATABASE

[Help](#)[Home](#)[Marks](#)[Boolean](#)[Manual](#)[Number](#)[Order Copy](#)[PTOLs](#)

(1 of 2)

[Check Status](#)

<b>Word Mark</b>	<i>FESTIVAL FLEA MARKET MALL</i>
<b>Owner Name</b>	(REGISTRANT) Shooster, Daniel H.
<b>Owner Address</b>	2900 W. Sample Road Pompano Beach FLORIDA 33073 INDIVIDUAL UNITED STATES
<b>Attorney of Record</b>	KAREN M. SULLIVAN
<b>Serial Number</b>	74-603926
<b>Registration Number</b>	1958606
<b>Filing Date</b>	11/28/1994
<b>Registration Date</b>	02/27/1996
<b>Design Search Code</b>	02.01.33; 02.09.05; 19.07.11; 26.11.07; 26.11.12; 26.11.13
<b>Description of Mark</b>	The mark consists of an abstract person outlined in white, running with a shopping bag in each hand against a colored background. The words " <i>FESTIVAL FLEA MARKET MALL</i> " appear in a mixture of styled block print and regular print underneath.; The mark is lined for the colors red and blue.
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE " <i>FLEA MARKET MALL</i> " APART FROM THE MARK AS SHOWN
<b>Register</b>	PRINCIPAL
<b>Published for Opposition</b>	12/05/1995
<b>Type of Mark</b>	SERVICE MARK



**International  
Class** 035

**Goods and  
Services** preparing advertising for vendors in a multi-tenanted marketplace; dissemination  
of matter regarding a multi-tenanted marketplace; DATE OF FIRST USE:  
1994.10.01; DATE OF FIRST USE IN COMMERCE: 1994.10.01

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**International  
Class** 036

**Goods and  
Services** leasing of *flea market* space; DATE OF FIRST USE: 1994.10.01; DATE OF  
FIRST USE IN COMMERCE: 1994.10.01

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(1 of 2)



# US PATENT & TRADEMARK OFFICE

## TRADEMARK TEXT AND IMAGE DATABASE

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(2 of 2)

[Check Status](#)

**FESTIVAL**  
FLEA MARKET

<b>Word Mark</b>	<b>FESTIVAL FLEA MARKET</b>
<b>Owner Name</b>	(REGISTRANT) Shooster, Daniel H.
<b>Owner Address</b>	2900 W. Sample Road Pompano Beach FLORIDA 33073 INDIVIDUAL UNITED STATES
<b>Attorney of Record</b>	KAREN M. SULLIVAN
<b>Serial Number</b>	74-548598
<b>Registration Number</b>	1948221
<b>Filing Date</b>	07/05/1994
<b>Registration Date</b>	01/16/1996
<b>Design Search Code</b>	29.01.07
<b>Description of Mark</b>	The mark consists of the term " <b>FESTIVAL</b> ", colored in a multi-colored mosaic-like pattern and the words " <b>FLEA MARKET</b> " separated by a small comet-like design.; The drawing is lined for the colors green, yellow, red, blue and orange and color is claimed as a feature of the mark.
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE " <b>FLEA MARKET</b> " APART FROM THE MARK AS SHOWN
<b>Register</b>	PRINCIPAL
<b>Published for Opposition</b>	10/24/1995
<b>Type of Mark</b>	SERVICE MARK
<b>International Class</b>	035

**Goods and Services** preparing advertising for vendors in a multi-tenanted marketplace; dissemination of matter regarding a multi-tenanted marketplace; DATE OF FIRST USE: 1991.06.06; DATE OF FIRST USE IN COMMERCE: 1991.06.06

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**International Class** 036

**Goods and Services** leasing of *flea market* space; DATE OF FIRST USE: 1991.06.06; DATE OF FIRST USE IN COMMERCE: 1991.06.06

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(2 of 2)

## CIVIL COVER SHEET 23

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

CIV - HURLEY

## I (a) PLAINTIFFS

R/S Associates, a Florida  
Limited Partnership and  
Dan Shooster

## DEFENDANTS

Robert Yari and Forum Arlington  
Properties, Ltd.

MAGISTRATE JUDGE

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Broward  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT LYNCH Angeles,  
(IN U.S. PLAINTIFF CASES ONLY) CA.

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Keith A. Goldbaum, Esquire  
Friedman, Rosenwasser & Goldbaum, P.A.  
5355 Town Center Rd. #801  
Boca Raton, FL 33486 (561) 395-5511

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

## II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff  
☐ 2. U.S. Government Defendant
- ☐ 3. Federal Question U.S. Government Not a Party  
☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Case Only)

Citizen of This State

Citizen of Another State

Citizen or Subject of a Foreign Country

PTF DEF  
☒ 1 ☐ 1  
☐ 2 ☒ 2  
☐ 3 ☐ 3

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5  
Foreign Nation ☐ 6 ☐ 6

## IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 U.S.C. §1331 and 1338, 15 U.S.C. §1121, 15 U.S.C. §1114 and 1125(a). Defendants breached contract; trademark infringement.

IVa. 3 days estimated (for both sides) to try entire case

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

A CONTACT	A TORTS	B FORFEITURE PENALTY	A BANKRUPTCY	A OTHER STATUS
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) B <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits B <input type="checkbox"/> 160 Stockholder's Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending B <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>A LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations B <input type="checkbox"/> 730 Labor Management Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act B	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 520 Copyrights <input type="checkbox"/> 530 Patent <input checked="" type="checkbox"/> 540 Trademark <b>B SOCIAL SECURITY</b> <input type="checkbox"/> 561 HIA (13858) <input type="checkbox"/> 562 Black Lung (923) <input type="checkbox"/> 563 DIWC/DIWW (405(g)) <input type="checkbox"/> 564 SSID Title XVI <input type="checkbox"/> 565 RSI (405(g)) <b>A FEDERAL TAX SUITS</b> <input type="checkbox"/> 570 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 571 IRS-Third Party 26 USC 7809	<input type="checkbox"/> 400 States Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rules etc. B <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeering Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 4101 <input type="checkbox"/> 581 Agricultural Acts <input type="checkbox"/> 582 Economic Stabilization Act <input type="checkbox"/> 583 Environmental Matters <input type="checkbox"/> 584 Energy Allocation Act <input type="checkbox"/> 585 Freedom of Information Act <input type="checkbox"/> 590 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 595 Constitutionality of State Statutes <input type="checkbox"/> 599 Other Statutory Actions * A or B
<b>A REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure B <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>B PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General * <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other * <input type="checkbox"/> 550 Civil Rights * A or B		

## VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

☐ 1. Original Proceeding ☐ 2. Removed From State Court ☐ 3. Remanded from Appellate Court ☐ 4. Refiled ☐ 5. Transferred from another district (Specify) ☐ 6. Multidistrict Litigation ☐ 7. Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED

CHECK IF THIS IS A

CLASS ACTION

DEMAND \$ 150,000

CHECK YES only if demanded in complaint

JURY DEMAND:

☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

S/F 1-2

REV. 9/94

FOR OFFICE USE ONLY: Receipt No. 518246

Date Paid: 11/7/00

Amount: \$150,000

W/tp: \_\_\_\_\_